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[SESSION OF 1856.

R E P O R T

OF THE

COMMITTEE ON MINES

AND

MINING INTERESTS,

TO WHOM WAS REFERRED THE

MEMORIAL OF CITIZENS OF SAN FRANCISCO.

JAMES ALLEN, STATE PRINTER



MEMORIAL.

To the Honorable, the House of Representatives of the State of California :

WE, the undersigned, Merchants of San Francisco, having read the report of the Legislative Committee on Mines and Mining Interests, to whom was referred the "Report of Edward McGowan, Commissioner of Immigrants, in regard to the unconstitutionality of and the impossibility of executing some of the provisions of the Act," passed last April, and entitled "an Act to Discourage the Immigration to this State of Persons who cannot become Citizens thereof," and imposing a "direct Tax on each and every such person of Fifty Dollars (\$50,)" we hereunto subscribe our signatures for the purpose of *upholding and sustaining* the said Commissioner in the course he has pursued in regard to the said Law. To enforce the unconstitutional provisions of the Act which *places a positive restriction upon the immigration from China*, which, it is evident to us, would eventually be *greatly detrimental* to the interests of the State, not only in *depriving it of an increase of consumers*, which its people have been endeavoring *by every means in their power to obtain*, but also depriving the Treasury of a *large revenue* that would naturally accrue from such a source: and still further withholding from consignees the legitimate benefits derived from an unrestricted China trade. *The provisions* which the said Commissioner has seen fit to disregard, or which, more properly speaking, he has been *unable to enforce*, after due and careful consideration cannot but be deemed unconsonant with the general interests of the people of the State.

Hoping that you will give this communication your earnest consideration, we respectfully subscribe our names as follows:

Alsop & Co.,
Smith, Brothers & Co.,
Ziel, Bertheau & Co.,
Mebius, Dusingburgh & Co.,
W. Meyer & Co.,
Lowe, Ebbetts & Co.,
J. R. Moller & Co.,
Geo. Howes & Co.,
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Croft & Co.,

Macondray & Co.
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D. Gibb & Co.
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SAN FRANCISCO, Feb. 26, 1856.

REPORT.

Mr. Speaker:

The Committee on Mines and Mining Interests, to whom was referred the memorial of sundry importers and merchants of the city of San Francisco, "upholding and sustaining" Edward McGowan, (the Commissioner of Emigrants,) in the total disregard of the enforcement of a law passed at the last session of the Legislature, entitled "an Act to discourage the Immigration to this State of Persons who cannot become citizens thereof," have had the same under consideration, and ask leave to make the following report:

Your Committee most unequivocally condemn a course, in any portion of our citizens, which will tend, or have for its object, to uphold and sustain any public officer in a total disregard of a duty enjoined upon him by positive law; such being the intent of the said memorial, in the opinion of your Committee.

It appears, that at the last session of the Legislature, an Act was passed requiring the Commissioners of Emigrants for the port of San Francisco, to visit emigrant vessels arriving at that port, and to ascertain the number of passengers on board incompetent to become citizens of the United States, and to demand and receive of the master, owner, or consignee of such vessel, the sum of fifty dollars for each passenger so disqualified from becoming a citizen.

From the late report of the said Edward McGowan, made in compliance with a resolution of this House, it appears that he has never enforced, nor ever attempted to enforce, the provisions of the said law, from the fact, that he views it as being unconstitutional; hence he has taken upon himself to disregard the provisions of the law entirely, and the merchant kings of San Francisco, in manifestation of their approbation, have subscribed their signatures to the said memorial, for the purpose of "upholding and sustaining" the said Commissioner in the course he has pursued in regard to the law, alleging, "that to enforce the unconstitutional provisions of the Act, which places a positive restriction upon the immigration from China, which is evident to them (the said merchants) would eventually be greatly detrimental to the interests of the State, not only in depriving it of an increase of consumers, but also depriving the Treasury of a large revenue that would naturally accrue from such a source, and still further withholding from consignees the legitimate benefits derived from an unrestricted China trade."

With all proper deference to the opinions expressed to this House by the said San Francisco merchants, your Committee are compelled to differ in judgment with them in the main proposition therein expressed, in this, they deem it a bounden duty of executive officers to execute all laws referred to them for execution by the Legislature, to the best of their ability, until such laws are repealed or declared unconstitutional by the proper tribunal; and any officer who will waive, or disregard the execution of a law, merely because this or that man declares it unconstitutional, or, forsooth, the execution of it may interfere with the pecuniary interests of certain importers and merchants, is unworthy the position as such executive officer, and in the opinion of your Committee should be removed, and his place filled by an officer willing to execute the law, until it is legitimately declared unconstitutional.

Your Committee are aware that the unrestricted immigration of Chinese to this State would be a temporary benefit to a small class of the citizens of San Francisco; but we are forced to the opinion, that the evils which would ultimately result to the masses from such unrestricted immigration, would by far overbalance such temporary and limited benefits, and more particularly would it prove suicidal to the great mining interests of this State—an interest, in the opinion of your Committee, the most paramount of all others; as it is the fountain head of all the wealth of which we, as a youthful State, can boast: and more especially is it the fountain, upon which San Francisco depends for all the wealth and greatness for which she is so renowned: for were it possible for the mines to cease to yield their golden treasure, six-tenths of the greatness of San Francisco would vanish on the instant.

It is alleged in the memorial, that the enforcement of the said law would deprive the State of an increase of consumers, so much to be desired by its people; and also deprive the Treasury of a large amount of revenue that would naturally accrue. This does not argue that the law should not be enforced. For we would all protest against the shipping to this State of paupers or criminals in any considerable numbers, yet they could be considered in no other light than that of consumers. We would as strongly protest against the licensing of thieves and robbers, still it is evident that such licensing would bring money into the Treasury.

Your Committee, after carefully considering all the propositions and reasonings of said memorialists, can come to no other conclusion than that the signers of said extraordinary instrument are extremely disloyal, or they did not correctly understand the nature and effect of the instrument they were signing; as we can look upon it in no other light than as being a direct insult to the Legislative authority of this State, and should not have been in the first instance taken notice of by this body; but as it was referred to our Committee, we felt it our duty to make this report upon the same.

J. E. BOWE,
A. J. BATCHELDER,
R. C. KELLY,
A. A. HOOVER,
JOHN DICK,
JAMES D. WHITE.



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